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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Note verbale dated 28 July 1994 from the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office and Other International Organizations at Geneva addressed to the Chairman of the forty-fifth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office and Other International Organizations at Geneva presents its compliments to the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and has the honour to transmit the comments of the Government of the Federal Republic of Yugoslavia on the sixth periodic report on the situation of human rights in the territory of the former Yugoslavia, submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, and requests the circulation of the above-mentioned document as an official document at the forty-sixth session of the Sub-Commission, under agenda item 6.

GE.94-13438 (E)

COMMENTS OF THE GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA ON THE SIXTH PERIODIC REPORT ON THE SITUATION OF HUMAN RIGHTS IN THE TERRITORY OF THE FORMER YUGOSLAVIA SUBMITTED BY MR. TADEUSZ MAZOWIECKI, SPECIAL RAPPORTEUR OF THE COMMISSION ON HUMAN RIGHTS

Belgrade, July 1994

Introduction

1. These comments of the Government of the Federal Republic of Yugoslavia pertain to the sixth periodic report on the situation of human rights in the territory of the former Yugoslavia, submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights (E/CN.4/1994/110 of 21 February 1994). Also attached are the comments on the part of the report on Bosnia and Herzegovina (paras. 5-79) of the Government of the Republic of Srpska, which requested that it be included herein in case the United Nations has not yet received the comments directly from the Government of the Republic of Srpska.

General remarks

2. In its comments on the fifth periodic report of Mr. Mazowiecki, the Government of the Federal Republic of Yugoslavia noted certain positive changes in the attitude of the Special Rapporteur towards the human rights situation in the former Yugoslavia. However, as in his fifth report, the Special Rapporteur displays also in his sixth report a lack of willingness and inability to overcome his one-sided and biased attitude in presenting the situation in the Federal Republic of Yugoslavia. Some parts contain tendentious allegations, while in others the wish to prejudge solutions is only too evident.

3. It is the obvious tendency of the Special Rapporteur to keep the previous picture of tension and gravity intact at all costs. The Special Rapporteur thus reiterates unsubstantiated allegations in his sixth report (see para. 154 of the report), many of which the Government of the Federal Republic of Yugoslavia has already denied or explained in its comments on previous reports* (see paras. 10, 14 and others below for more detail).

4. Other parts of the sixth periodic report also show that the Special Rapporteur is not interested in the return of information based on facts. It is therefore right to question the purpose of the dialogue with the Special Rapporteur, entered into by the Yugoslav side in very good faith indeed.

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* A/47712-S/24844 (E/CN.4/1992/S-2/4) of 24 November 1992; A/C.3/47.5 (E/CN.4/92/S-2/5) of 9 December 1992; A/48/113-S/25397 of 11 March 1993 or E/CN.4/1993/116; A/48/203-S/25898 of 8 June 1993; and E/CN.4/1994/119 of 17 February 1994.

5. Many conclusions in the report have been made on the basis of allegations by persons whose names are not given and without the place or time of the incident or proper corroborating evidence or documentation. Therefore, even those with sketchy knowledge of United Nations reporting on thematic issues or country situations may rightly question the credibility of the author and his intentions.

6. It is evident that the Special Rapporteur uses the so-called reliable sources and individual examples only as a pretext for stereotyped and unprincipled allegations and for making conclusions detrimental to the Federal Republic of Yugoslavia, which also seem to be politically motivated (see para. 130 of the report).

7. Judging by the length of his various remarks, the Special Rapporteur seems to be equally concerned with the effects of the sanctions, meting out a collective punishment to the entire population of the Federal Republic of Yugoslavia, and the damage they cause to the Yugoslav economy, with the resultant brain drain, drastic increase of the country's death rate and the number of the sick, with social poverty, cultural, transport, sports and other forms of isolation of Yugoslavia from the rest of the world, the drastic fall in the country's birth rate and with many other flagrant violations of the basic human rights of the population of the Federal Republic of Yugoslavia by the United Nations, done exclusively for political reasons, on the one hand, and, on the other, with the fact that some Turkish words in the Serbian language dating back to the Ottoman occupation are no longer being used in radio broadcasts of a local station in a small town in Montenegro (see paras. 157 and 130 of the report).

8. Once again the Special Rapporteur succumbs to the temptation of accusing the present authorities in Yugoslavia, elected, incidentally, at free, democratic, multiparty and repeated elections, of everything he considers to be negative or of what was presented to him by his so-called reliable sources. At the same time, he continues to call for greater support and assistance to democratic, opposition forces in Yugoslavia whose very existence proves that the Federal Republic of Yugoslavia is more democratic than many countries with whose situation the Special Rapporteur is familiar. As for opposition parties, each one of them has repeatedly demonstrated its own vitality and capacity to fend for itself quite well even without the helping hand of the Special Rapporteur. It would perhaps be useful to note that these parties were not only represented in the Assemblies of the Federal Republic of Yugoslavia and its Republics, Serbia and Montenegro, but that their members held some ministerial posts at the time of the preparation of this report. The Special Rapporteur does not seem to consider the sanctions and the isolation of the Federal Republic of Yugoslavia from the international community as an obstacle to the further democratization of the country. However, he does advocate and support wholeheartedly "the full integration" of other parts of the former Socialist Federal Republic of Yugoslavia into the international community which "is relevant to the effective promotion and protection of human rights" in these newly formed States (see para. 160 of the report). This may, and does, lead to one particular conclusion, far less flattering for the Special Rapporteur than he would like to think, as well as for the United Nations, which is duty-bound to take care of its prestige and reputation even after the contribution of the Mazowiecki team has been

completed. This prestige and reputation will surely not be enhanced if the United Nations continues to turn a blind eye to the violation of the human rights of the citizens of the Federal Republic of Yugoslavia and discriminates against them on the basis of national and ethnic origin.

9. In addition to not being authentic, many assertions in the report are disregardful of the Constitution of the Federal Republic of Yugoslavia, the country's laws, geography, place names and administrative organization. Thus, the province of Kosovo and Metohija is renamed Kosovo, while the towns of Bijelo Polje and Rozaje in Montenegro are entered in the section on Serbia, subtitled Sandzak, even though the report does contain a section on Montenegro and even though Sandzak is not an administrative unit of Serbia, except in the report of the Special Rapporteur (see para. 146). These seemingly minor inaccuracies have a much more ambitious goal - to create as many "sandzaks"* in the Federal Republic of Yugoslavia as are necessary to stir up trouble in as many parts of the Yugoslav territory as may be deemed desirable. Territorial units in the Republic of Serbia are determined by its Constitution. They are the Republic of Serbia itself, the Autonomous Province of Kosovo and Metohija, the Autonomous Province of Vojvodina and municipalities, while the entire Republic is divided into 29 districts by a separate decree. "Sandzak" does not exist in any of these divisions and there are no other divisions either. The inspiration of the Special Rapporteur to attach this name to one of the chapters in his report must have come from some opposition Muslim organizations (e.g. the Sandzak Committee for the Protection of Human Rights) which profess to promote human rights and argue that this territory has its own geographical and historical specificities. However, their claim is spurious and this territory represents no historical, geographic or ethnic whole as history provides ample evidence that, except in a two-year period during the Second World War under the Nazis and in very specific conditions, this territory has never been a separate district under that name. Accordingly, it is absolutely wrong to contend that there exists a separate Sandzak people or a separate Sandzak State under Serbian occupation, as implied in the Mazowiecki reports. However, if the Special Rapporteur does consider and can document that the human rights of Muslims are violated in any part of the Federal Republic of Yugoslavia, he is requested to honour the territorial divisions established by the Constitution and laws of the Federal Republic of Yugoslavia and observe the legal procedure applicable in a bid to prove or refute such accusations.

10. The Government of the Federal Republic of Yugoslavia has repeatedly drawn the attention of the Special Rapporteur to the fact that the names of administrative units in the Republic of Serbia used in his reports are incorrect. As these remarks have been blatantly ignored, the Yugoslav Government feels obliged to reiterate its request that the names of the two autonomous provinces of the Republic of Serbia be used correctly, as determined in the Constitution, and that new and non-existent administrative divisions, as the one subtitled "Sandzak", be no longer introduced.

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* Sandzak is a Turkish word in the Serbian language taken over at the time of the Ottoman occupation and it means a district, one of many and identical administrative units in the Ottoman Empire.

11. The Special Rapporteur is only too ready to proffer unsubstantiated accusations that minority rights are violated. This is very reminiscent of the ongoing smear campaign against Yugoslavia and in sheer disregard of the fact that the interests of minorities are damaged the most precisely by those international factors which exacerbate and abuse Yugoslavia's current problems with minorities to further their own strategic or short-term interests and rearrange the relationship of forces. At the same time, they pay little or no heed to the fact that by such an attitude they antagonize part of the Yugoslav public against members of minorities. Under the Constitution, the Yugoslav State is not a national State, but the State of all its citizens. It recognizes the existence of minorities and grants them the status of "national minorities", an example not widely encountered, especially not in the immediate vicinity of the Federal Republic of Yugoslavia. It is in order to note in this respect that, throughout its history, Yugoslav society has been and still is multinational and ethnically mixed, which is a fact of life recognized and comfortably lived with in today's Yugoslavia. Furthermore, the Federal Republic of Yugoslavia has made no attempt to assimilate its minorities either through State coercion or by other, more subtle methods, which is not an infrequent practice elsewhere in its surroundings.

12. No act or action in the Federal Republic of Yugoslavia is aimed at deliberately denying the rights of, or at threatening and persecuting, any particular category of the population, including minorities. Similarly, the existing problems are solved in accordance with the Constitution and the laws and regulations in force and are dealt with in a non-discriminatory way, the only possible way based, inter alia, on the principles of international law. The efforts of the Special Rapporteur to present the legal prosecution of terrorism, often engaged in with organized use of force, or a breach of the constitutional order committed by minority members as a deliberate and unfounded persecution of ethnic Albanians, Muslims and other minorities in the Federal Republic of Yugoslavia are therefore absurd and unacceptable.

Conclusions and recommendations

13. Considering that the method of work of the Special Rapporteur is based by and large on the distortion of acts, on falsehoods, insinuations, misinformation and half-truths, it is considered and requested once again that, before selecting information for their reports on the former Yugoslavia, those who take part in the preparation of the reports:

1. Use the names and territorial divisions of the Federal Republic of Yugoslavia as they are determined by the Constitution and laws of the country;

2. Either check information or drop it altogether or present it in an appropriate way;

3. Present individual cases as such, rather than make general conclusions on isolated cases;

4. Substantiate their allegations by specifying the places and times of incidents and the names of witnesses;

5. Do not distort individual cases of the violation of the law or constitutional order by members of some categories of the population (minorities) to fit the accusations of discrimination against minority members;

6. Apply the same criteria to all parts of the report on the former Yugoslavia;

7. Show respect for the readiness of the Yugoslav side to provide clarifications, pay heed to the return information in their next reports and recommend a normal and equal participation of the Federal Republic of Yugoslavia in the work of the bodies concerned with the implementation of international covenants on human rights;

8. Make an effort to understand Yugoslav political pluralism and the situation in the media and present them accordingly; and

9. Examine the status of Serbs in other parts of the former Yugoslavia and the discrimination against them as members of a nation and a religion, and devote to them equal attention and space in their reports.

I. CONCRETE REMARKS ON CHAPTER III (Federal Republic of Yugoslavia)

Republic of Serbia

Security of the person

14. (Para. 122) Already in the introduction it has been critically noted that the Special Rapporteur makes general, dramatic and unsubstantiated conclusions in his report without providing necessary examples or details which would bear out the veracity and serious nature of his allegations. It will therefore be a rule rather than an exception not to discuss each individual case, as the one in paragraph 122, in providing concrete remarks on this report.

15. In this paragraph, the Rapporteur makes no mention of the source of his information on the brutal and excessive use of force and torture by the police. The case of two Muslims who were allegedly beaten, as stated in the report, by Serbian police provides no basis for generalized assertions as contained in this paragraph. Furthermore, it is not clear on the basis of what evidence it is concluded that such activities of the police are directed especially against Muslims and Albanians. If such conclusions have been made on the basis of the number of discovered and prevented terrorist acts or the quantity of arms in illegal possession they hardly belong in the rubric "Security of the person", let alone the Mazowiecki report.

16. (Para. 123) Here again the Special Rapporteur makes unsubstantiated conclusions and verbose allegations about alleged threats and reprisals against members of the political opposition and trade union activists. The case in point is the arrest of Z. Dzakula who, contrary to the allegation contained in the report, who arrested by the authorities of the Republic of Serbian Krajina and, as the Government of the Federal Republic of Yugoslavia has found out, has subsequently been released.

Public incitement to discrimination and hatred against minority groups

17. (Para. 124) The assertions in this paragraph provide further evidence of the inconsistence and arbitrariness of the Special Rapporteur. Whereas he tries hard in this and in his previous reports to explain and uphold his proposition that freedom of expression in Yugoslavia is suppressed, that political censorship is rife and that the opposition has no proper access to the media, and blames the ruling party for these transgressions, alleging that Yugoslav society is undemocratic because opposition parties are deprived of their rights, in paragraph 124 the Special Rapporteur castigates the leader and political programme of a rightist opposition party and is disapproving of the fact that he is allowed to voice his views in the media. In this connection it should be noted that rightist parties are a political force to be reckoned with everywhere else in the world, including many so-called Western democracies. Besides, positive laws in the Federal Republic of Yugoslavia do not recognize "verbal delict" as a criminal offence.

18. (Para. 125) The Special Rapporteur makes very arbitrary assessments of the Yugoslav media also in this report, alleging that they encourage "the prevailing climate of ethnic and religious hatred". These assessments are biased and inaccurate, all the more so as they are not contrasted to the situation in the media in the other republics of the former Yugoslavia. Although the Government of the Federal Republic of Yugoslavia did discuss in its comments on the previous report the problem of a certain number of newspapers published by national and religious groups in Serbia and Yugoslavia, once again the Special Rapporteur makes no effort to assess the reporting of Albanian language newspapers in Kosovo and Metohija, the newspapers in Hungarian, or some newspapers published in the Raska area, which contain pieces directly inciting inter-ethnic conflicts.

19. In the measure they can afford to do so in the conditions imposed by the sanctions, the media in Serbia take over and broadcast unedited reports of foreign television stations also on former Bosnia and Herzegovina. This presents an opportunity to viewers in Serbia to familiarize themselves not only with the bias, but also with the undisguised racial discrimination and the incitement to hatred against Serbs as a nation, churned out by these stations, which does not seem to concern the Special Rapporteur.

20. At the same time, the public of the former Yugoslav republics and Western countries has been denied the possibility to hear "the other side" in the war in former Bosnia and Herzegovina, Croatia and Slovenia. Notwithstanding the fact that international officials and organizations agree that a civil war is being fought in Bosnia and Herzegovina, Serbs in this former Yugoslav republic continue to be spoken of as aggressors, although history provides abundant evidence that Serbs have come to Bosnia and Herzegovina from nowhere and that they have lived there for centuries. No explanation is proffered as to how someone defending his own country and home can be an aggressor. The blame for the conflict is always laid at the Serbs' door. The Sarajevo Markale Market massacre is only one such example. Even before the UNPROFOR Commission report was released and even though, when released, it did not specify the culprit, the foreign media hastened to accuse the Serbs. Today, many foreign, not

Serb, sources aver that it was the Muslims who had sacrificed their own people all over again for political gains. (Ample evidence to this effect has been provided, among others, by French Television Channel One).

21. Some media go so far as to portray the Serbs as a people of negative genetic and social traits ("the people of peasants and savages", The New York Times, 10 April). As the Special Rapporteur never bothered to acquaint himself with such reports, the Yugoslav side is willing to make them available, which would perhaps elucidate somewhat the extent of the misinformation and the withholding or "doctoring" of information the foreign media engage in in their reports on Yugoslavia. In this situation, spontaneous reactions by some Serbian journalists could hardly be interpreted otherwise but is exaggerated personal reaction to the "anti-Serbian conspiracy". Yet, such reactions belong in the realm of the individual psychology of each particular journalist.

22. Since early 1994 the programme "Iskre i varnice nedelje" is no longer broadcast.

23. The Special Rapporteur is not loath to engage in something which is well and widely known as the art of special pleading. When speaking about the suffering of the Serb people he does not hesitate to put the word "crimes" in quotation marks. Yet, well documented and processed evidence on the crimes committed against the Serb people in this war in former Croatia and Bosnia and Herzegovina is available and can be presented to the Special Rapporteur if he shows interest. They would perhaps change his assessment of "sensationalist and distorted accounts of historical and existing crimes ... committed 'against the Serbian people'".

Freedom of expression and the situation of the media

24. (Para. 126) The concern expressed in the allegation over "political censorship and unequal access to the media" in the Republic of Serbia bespeaks a lack of inside knowledge of the political situation in Yugoslavia and is yet another manipulation of the human rights situation in the Federal Republic of Yugoslavia by the Mazowiecki reports.

25. It is wrong to aver that the National Assembly of the Republic of Serbia, as the highest legislative body of this Republic, proposed, either before dissolution or upon constitution after new elections, any draft law in the field of public information. In point of fact, proposals were made by some deputies from opposition parties (the Serbian Radical Party and DEPOS) to amend the present laws on public information and on radio and television; they were included in the regular Assembly procedure and submitted to the Government for assessment. The Government will submit its reply to these initiatives to the National Assembly, which will discuss them in a democratic debate and adopt appropriate decisions.

26. As to the allegation about the dominating role of Radio-TV Serbia vis-à-vis newspapers which are expensive because of the prevailing economic situation, no daily or weekly is known to have ceased publication; on the contrary, new ones are being established and published.

27. (Para. 127) At the time of the December 1993 elections, 1,420 newspapers with diverse professional and political contents were published in Serbia and 3 large and 10 small television stations and over 100 radio stations broadcast their regular programmes. Almost all major opposition parties in Serbia have their own newspapers and magazines and reports on their activities form the staple of the programmes of the so-called independent media, while the Serbian Parliament has run the gamut of the most diverse political views since the 1990 elections. This testifies to the plurality of views represented in the media in Serbia.

28. The information programmes of Radio-TV Serbia covered the early elections of December 1993 in accordance with their editorial policy and conception, treating the elections as an important State and national, rather than as a narrow party, event. In accordance with the Law on the Election of Deputies (arts. 59-61), radio and television were duty-bound to ensure an equal, independent and objective presentation of all participants in the elections. In its coverage of the election campaign, Radio-TV Serbia observed the Rules on the Presentation of Parties in the Media, defined before the elections as a result of a consensus reached by political parties, the Government and the media. In accordance with its status as a State public enterprise, Radio-TV Serbia signed an agreement with the representatives of the political parties and the Government of the Republic of Serbia on the number and duration of broadcasts in which candidates presented themselves.

29. The Control Committee for early elections was also established comprising intellectuals and media experts from different political parties. The Committee was entrusted with the general control of election activities and had no serious objection made as to the comportment of Radio-TV Serbia, other media or the participants in the elections. Moreover, in its final assessment, the Committee considered that, despite minor shortcomings, the entire Serbian information system withstood many pressures, both from within and from without, and had no negative bearing on political activities during the elections.

30. The December 1993 elections were held in the full glare not only of domestic but also of international publicity. Major world news agencies accredited over 500 reporters. There were also about 100 observers representing foreign parliaments, political parties and associations and various media organizations. The assessment of the representative of the "Est Liberte" international organization, Vasil Popovci, is illustrative of the opinions of international observers about the 1993 elections, who assessed that they had been correct and that there had been no serious breaches of the procedure. British Members of Parliament Sir Russell Johnstone and Robert Wareing said that they were satisfied with the organization of the elections at polling stations in Belgrade and that their impression was that the elections had been correct, whereas Hungarian observer Mak Ferenc said that nothing seemed to have disturbed the election process. He went on to say that, unlike in some Eastern European countries where elections were held at the same time, election control committees in Serbia consisted of representatives of various political parties and votes were counted at polling stations. Romanian observer Cristian Dimitriescu stressed that, on force of

the evidence his mission had had, Serbia was on the right road to build a genuine multiparty democratic system. A similar assessment was made by French Member of Parliament Yves Bonnet.

31. (Para. 128) Anyone in Serbia with funds and ideas is free to publish newspapers and establish radio and television stations in accordance with the Law on Public Information. Media considering themselves independent from the authorities have no problems broadcasting in Serbia and do not deny that their editorial policy is influenced by opposition parties and even by some international factors who support them financially. Conversely, the ruling party neither possesses nor controls any newspaper. In accordance with the Constitution and the law, State radio and television are managed by a board appointed by the Government of the Republic of Serbia as a State and not a party organ. Consequently, political and media pluralism is very much in evidence in Serbia and the Government and the ruling party often find themselves at the receiving end of very strong criticism indeed.

32. Only those whose intentions are doubtful or whose information about political pluralism in Serbia is sketchy or downright wrong can question the criticism in the programmes of Radio-TV Serbia and in other media. The weekly "Vreme", both in its political and satirical pieces, dissects high-level State officials and directors and editors of the State television. Also, it does not stop short of passing arbitrary judgements and of misrepresenting the official policy and has no qualms about espousing the positions which are often contrary to the Serbian State and national interests. "Vreme" and its journalists have been among those in Yugoslavia and abroad who blamed Serbs alone for the camps in the territory of the Republic of Srpska (former Bosnia and Herzegovina). However, the truth of the matter is that the military authorities of the Republic of Srpska held only military detention camps, to which representatives of international humanitarian organizations had free access and insight. These falsehoods prompted Radio-TV Serbia and most other media in Serbia to disclose the existence of Croat- and Muslim-controlled camps in former Bosnia and Herzegovina whose prisoners were mainly the elderly, women and children, as well as the fact that the activities of international humanitarian organizations fell well short of the expectations and commitments of these organizations to protect the civilian population.

33. (Para. 129) The allegation that the provision of the Law on Public Information on the right of reply is not implemented in practice is imprecise, undocumented and made in such general terms that it merits no serious consideration or response. However, bearing in mind the fact that the Ministry of Information is in charge of the overview of the implementation of the public information regulations, including those relating to the right of reply, it is indicative that very few complaints have been submitted to the Ministry thus far. The Ministry did respond to all controversial cases in accordance with its legal powers, so that the problems have been deal with efficiently. Besides, the right of reply and correction is also legally protected, which guarantees its consistent implementation. Furthermore, even a cursory look at daily newspapers and radio and television programmes would suffice to convince well-meaning analysts of these problems of the existence of a plethora of pieces and programmes that are polemical in content,

containing most diverse statements, replies and corrections. This proves the falsehood of the allegation, of which the Special Rapporteur himself seems to be aware, having defined it in such broad and general terms.

Conscientious objection to military service

34. (Paras. 131-134) As stated in paragraph 131 of the report, the new Yugoslav military legislation (the Law on the Army of Yugoslavia, "Official Gazette of the FRY", No. 67/93) provides for conscientious objection as a basis for exemption from military service under arms for religious and other reasons. It is further noted in the report, quite correctly, that the Yugoslav criminal legislation, like corresponding laws in many other countries, contains the criminal offence of refusal to serve in the armed forces (art. 214) of the Criminal Code of the Federal Republic of Yugoslavia). However, it is wrong in asserting that "the corresponding regulations and procedures for its implementation remain to be adopted". In point of fact the criminal offence in article 214, its terms and content, is interpreted on the basis of corresponding additional regulations (in this case the Law on the Army of Yugoslavia, art. 296, para. 2). The previous military regulations did not honour conscientious objection and article 214 of the Criminal Code of the Federal Republic of Yugoslavia was interpreted in this sense (refusal to serve in the armed forces because of conscientious objection was punishable). With the introduction of the provision on conscientious objection in the Law on the Army of Yugoslavia, article 214 of the Criminal Code is interpreted accordingly. It is apparent from this remark that the Special Rapporteur had other goals in mind as he included it in his report. His interest is in those who refused to serve in the armed forces from 1991 to 1994 by escaping abroad or in other ways and the calls for them to be granted amnesty.

35. The Special Rapporteur should also be wary of making other unspecified allegations, including the one that Muslims, Slovaks and Hungarians have been prosecuted in disproportionate number for refusing service in the military.

Autonomous Province of Kosovo and Metohija

36. (Para. 139) The Government of the Federal Republic of Yugoslavia explained in some length and detail the education system in Kosovo and Metohija in its comments on the fifth Mazowiecki report and in many meetings with international officials. For this reason it is deemed appropriate to focus this time on one point alone: the problem would become marginal if the international community made it be known to ethnic Albanian political parties in unambiguous terms that Kosovo and Metohija is an integral part of Serbia and that it will remain so. The linguistic manipulation of the Special Rapporteur in this paragraph ("parallel education system of the ethnic Albanians" and "the continuing absence of a dialogue") serve to mislead the uninformed reader that it is the official authorities of the Republic of Serbia who introduced parallel education for the members of this ethnic minority and that they are to blame for an absence of dialogue. However, the opposite is true. Through indoctrination and coercion, ethnic Albanian political parties force Albanian children to attend parallel schools, refusing dialogue in the process. It would perhaps be in order to recall that one of

the basic Conference on Security and Cooperation in Europe (CSCE) principles on national and ethnic minorities is the assumption that minorities should, first and foremost, be loyal to the State in which they live.

37. (Para. 140-143) According to the report submitted by the President of the Regional Court in Pristina, he never had the meeting mentioned in this paragraph, neither did he discuss the treatment of detainees by the police nor make any statements to that effect.

38. According to the reports of the Supreme Court of Serbia and the regional courts of Pristina, Pec, Gnjilane and Prizren, there have been no complaints from ethnic Albanians about unlawful criminal proceedings against them or about harassment of them as members of a national minority.

39. In 1993, criminal proceedings were instituted before the courts of the Autonomous Province of Kosovo and Metohija against a certain number of ethnic Albanians for the criminal offences of causing a threat to the territorial integrity of the Federal Republic of Yugoslavia and of association for hostile activity purposes. The criminal proceedings were conducted in accordance with the Law on Criminal Procedure and judgements were passed on the basis of the proceedings conducted and evidence presented. The persons whose guilt was proved were pronounced guilty. According to the Law on Criminal Procedure, all judgements can be appealed, while the legality of the conduct of the proceedings, presentation of evidence and the validity of judgements are verified by a higher court in each individual case. By checking the facts, it has not been established that ethnic Albanians are being arbitrarily arrested or ill-treated during detention or the conduct of proceedings.

40. Criminal proceedings were conducted before the Pec Regional Court in six cases against 23 persons for the criminal offence of threatening the territorial integrity of the Federal Republic of Yugoslavia under article 116, paragraph 1 of the Criminal Code of Yugoslavia. Twenty-two accused persons were pronounced guilty and sentenced to imprisonment of from one to six years. The charge against one person was dismissed. The sentenced included persons previously employed in the local government administration of Djakovica, specifically in the National and Territorial Defence Department.

41. In 1993, investigation in one case against eight persons, detained during the proceedings, was discontinued. Currently, investigation is under way against seven persons for the criminal offence of threatening the territorial integrity of the Federal Republic of Yugoslavia and those persons are in detention. Criminal proceedings were conducted before the Prizren Regional Court in seven cases against 18 persons for the criminal offences of threatening the territorial integrity of the Federal Republic of Yugoslavia and of association for hostile activity purposes under article 136 of the Criminal Code of Yugoslavia. The charge against one person was dismissed and 17 persons were pronounced guilty and sentenced to imprisonment for from six months to six and a half years.

42. Criminal proceedings were conducted before the Gnjilane Regional Court in 1993 in one case against five persons accused of being members of an illegal hostile organization called the "National Movement for the Liberation of Kosovo", whose aim is the secession from Yugoslavia, by the use of force,

of all territories inhabited by ethnic Albanians. The accused were charged with the criminal offences of association for hostile activity purposes and of threatening the territorial integrity of the Federal Republic of Yugoslavia. The proceedings before a first-instance court have been completed and the appeal proceedings are now under way. Criminal proceedings were conducted before the Pristina Regional Court in one case against 18 persons for the criminal offences of association for hostile activity purposes and of causing a threat against the territorial integrity of the Federal Republic of Yugoslavia. Seventeen of them were sentenced to imprisonment for from 1 to 10 years and one charge was dismissed. In 1993, investigation was carried out against 14 persons for the same criminal offences, which ended in indictments and criminal proceedings are now being conducted against all of them in accordance with the Law on Criminal Procedure. As to the allegations that there are "reports concerning arbitrary detention and violation of the right to a fair trial by a competent and impartial tribunal" and that "taking into consideration the previous military experience of the accused, the Serbian authorities have alleged that this group was setting up a military organization, forming armed units, registering conscripts for military service and for collecting weapons", it is deemed necessary to state the following.

43. The conditions for arrest and detention are stipulated by the Law on Criminal Procedure. In order to detain a person, there should exist reasonable doubt based on sufficient evidence that a criminal offence has been committed. The duration of detention is limited and subject to constant verification. Any first-instance court decision can be appealed to a higher court within 24 hours or 3 days. Criminal proceedings are never conducted on the basis of an allegation of the authorities but exclusively on the basis of evidence, which is checked and assessed during the proceedings so that it can in the end be established by a judgement whether the person charged is guilty or not. The accused has the right of appeal guaranteed by the law.

Paragraphs 144 to 147

44. The main hearing of 25 Muslims from the areas of Novi Pazar, Tutin and Sjenica was initiated before the Novi Pazar Regional Court. They have been accused of the criminal offence of causing a threat against the territorial integrity of the Federal Republic of Yugoslavia under article 116, paragraph 1, punishable under article 138 of the Criminal Code of Yugoslavia, in combination with the criminal offence of illegal purchase, possession, carrying, manufacturing, exchange or sale of fire arms, ammunition or explosive devices under article 33 of the Law on Arms and Ammunition of the Republic of Serbia.

45. However, the allegation contained in the Report that the investigative and prosecution organs prosecute only Muslims or other minority party members for the illegal purchase and possession of arms and not members of other political parties (e.g. the Serbian Radical Party) is untrue. The available data, including the number of the reported criminal offences in some regions, indicate that there is no discrimination on the basis of national origin in prosecuting the perpetrators of these criminal offences. In 1993, public prosecutors' offices received 8,932 criminal charges for the criminal offence of illegal purchase, possession, carrying, manufacturing, exchange or sale of fire arms, ammunition or explosive devices and 7,793 persons were accused of

this crime. The breakdown by territories shows that public prosecutors' offices in the Raska region (Novi Pazar, Tutin, Sjenica, Prijepolje, Priboj and Nova Varos) received 482 criminal charges, in Kosovo and Metohija 1,992 charges, in Vojvodina 2,382 charges, in the city of Belgrade, 1,296 and others 2,270 criminal charges.

46. Article 218 of the Law on Criminal Procedure specifies which personal data are required from a person charged, which does not include information on his/her political leanings. Accordingly, judicial authorities do not possess the information on political leanings of the accused and charged persons.

Autonomous Province of Vojvodina

47. (Para. 148) The mentioned cases of violence and criminal activity of individuals in Vojvodina are not politically, religiously or nationally motivated. They are typical examples of criminal offences motivated by greed or of other wrongdoings. For political reasons and in an attempt to increase inter-ethnic tension in this region, some political parties and individuals present these and similar activities as a result of inter-ethnic intolerance and pressure on minority communities. The prosecution and judicial authorities take all necessary measures to investigate these events and to bring the perpetrators to justice. Despite the sanctions, cooperation has been established with the competent Hungarian authorities which resulted in the arrest of a mass killer and his accomplices.

The Republic of Montenegro

48. (Paras. 149-151) The public information situation in the Republic of Montenegro is not different from the public information situation in the Republic of Serbia. It is deemed appropriate to reiterate that the Government of the Federal Republic of Yugoslavia presented its views in its comments on the fifth Mazowiecki report (section E, para. 52) on "the issue of maintaining the Montenegrin historical and cultural identity".

Comments on the conclusions and recommendations

49. (Para. 152) The conclusion has been made on the basis of unchecked stories and the recommendations are aimed at increasing tension in this region.

50. (Para. 153) In the light of the comment of the Government of the Federal Republic of Yugoslavia in paragraph 9, this conclusion is immaterial.

51. (Para. 154) The conclusion is inconsistent with the facts and is not substantiated by the report itself.

52. (Para. 155) The problem of citizenship has arisen as a result of the secession from the former Socialist Federal Republic of Yugoslavia. The problem is being addressed and will no doubt be overcome soon (within a few months). It does not concern only members of other nations of the former Yugoslavia, but also a considerable number of members of the Serbian

nation who were born in, or originate from, the republics which seceded and have lived all their life in Serbia and Montenegro, where the majority of them have established their own families.

53. (Para. 156) The concept of democratic opposition is very elastic and can be used for all sorts of purposes, not least for daily politics and for the furtherance of one's own interests. The is evinced by the behaviour of many international factors which consider themselves called upon to interpret this concept. If a political party is in opposition it does not necessarily mean that it has democratic leanings, while the existence of the opposition does not mean that the government (elected in general and democratic elections) is undemocratic. This is borne out by the behaviour of some political parties in Eastern European countries which had the privilege of being called democratic and came into power after the breakdown of Communism in their countries. After all, it is not unknown that opposition exists in many other countries as well.

54. (Paras. 157 and 158) Any attempt to present objectively the humanitarian situation in the Federal Republic of Yugoslavia is commendable, but it is recalled that the situation as described by the Special Rapporteur is attributable, in large measure, to the blockade and the sanctions imposed on the Federal Republic of Yugoslavia as a result of the biased and false picture of the developments in the former Socialist Federal Republic of Yugoslavia created by so-called objective reporters, including many from the mass media of Western countries.

II. COMMENTS OF THE GOVERNMENT OF THE REPUBLIC OF SRPSKA ON SOME ASPECTS OF THE CHAPTER ON BOSNIA AND HERZEGOVINA (PARAS. 5-79) OF THE SIXTH PERIODIC REPORT SUBMITTED BY MR. TADEUSZ MAZOWIECKI, SPECIAL RAPPORTEUR OF THE COMMISSION ON HUMAN RIGHTS

[Pale, June 1994]

55. Rather than discussing the root-causes and consequences of the war which has been imposed upon the Serb people in its struggle for the recognition of the inalienable rights granted to all peoples - the right to self-determination, freedom and independence - these comments are aimed, first and foremost, at putting right some of the allegations made by the Special Rapporteur in his sixth periodic report. Needless to say, many of these allegations are based on insinuations, half-truths, rumours and prejudice rather than on facts.

56. Like any other multinational, multiracial or multiconfessional community in which murder, violence, robbery or a similar act of violence committed by a member of one ethnic community against a member of another (the killing of an Italian by an Irishman in Brooklyn or Queens, for instance) is not considered to be motivated by ethnic cleansing, the Republic of Srpska refuses to qualify numerous murders of Serbs by Muslims or Croats as ethnically motivated criminal acts. A few examples from the Banja Luka area will suffice to provide the right picture.

57. The multiple murder committed by a Muslim, D.A., from Banja Luka is very illustrative. In September 1992, he murdered two Muslims (one of them was a

khoja), three Serbs and attempted to murder a Croat woman. When he was surrounded, he committed suicide. There are other cases as well: H.A., a Muslim from Banja Luka, murdered another Muslim in an inn on 17 April 1992; Muslim Z.S. murdered ethnic Albanian R.S. on 12 August 1992; Croat B.F. murdered two Croatian women and a Serb on 13/14 March 1993; D.V., also a Croat from Banja Luka, murdered his Muslim tenant on 27 September 1993.

58. There are also numerous cases of theft and burglary committed by Muslims, Serbs or others in which, like in any other country, the victim was not selected for his nationality or religion but for the booty the criminals expected to take. The data on attacks against Serbs and their property compared to those on attacks on non-Serbs and their property are in outright contrast to the proposition the Special Rapporteur has set out to prove. It is equally true that the number of attacks on Serbs and their property and the number of Serbs killed in Muslim and Croat-controlled territories is terrifying, but this information is withheld since alien interests obstruct investigation and the presentation of possible results to the world. The official authorities of the Republic of Srpska investigate all crimes with equal tenacity and professionalism irrespective of the nationality of the victim or perpetrator. The percentage of solved murders and other criminal acts, particularly the grave ones, is higher than the standard average in many other countries. And like in other countries, a number of crimes remain unsolved, but they are the exception rather than the rule.

59. (Para. 8) As to the alleged eviction of a non-Serb family in Banja Luka on 13 December 1993, mentioned by the Special Rapporteur in this paragraph, it has been established by checking into official records that the competent regional authorities in Banja Luka received no complaint in this regard.

60. (Para. 10) As to the case of "an 82-year old Muslim man who, between 5 and 7 November 1993, suffered repeated physical and verbal abuse and theft by assailants" when "the police failed to respond promptly to requests for assistance or to conduct proper investigations" the Special Rapporteur is reminded that there are many 82-year old Muslim men in Banja Luka. It is presumed, though, that this specific case concerns K.R. and the facts in his case are quite contrary to the allegation contained in the report. At 7 p.m. on 5 November 1993, unidentified assailants did attack K.R. in Banja Luka, but the police arrived immediately after the phone call he had made and prevented violence against him. The attack was repeated the following day, 6 November 1993, and the police intervened promptly at about 7.30 p.m. and prevented violence against K.R. In the night between 25 and 26 November 1993 and in the evening of 27 November 1993, the apartment of this Muslim was burglarized while he was not at home and on 3 December 1993 unknown assailants attempted to break into his apartment while he was at home, but he phoned the police who intervened promptly, giving chase to the perpetrators who scattered the stolen items across the courtyard and the street. The police authorities in Banja Luka soon discovered the perpetrators and criminal charge No. KU-530/93 was filed against six persons from Banja Luka on 22 December 1993.

61. (Para. 11) As to the murder of the married couple and their neighbour at Vrbanja on 29 December 1993, on that occasion Ahmet and Sanija Karat and their neighbour Midho Obrlic were murdered, the Banja Luka police quickly arrived on

the scene and conducted an on-the-spot investigation, whereupon a criminal charge was filed. The perpetrators have not yet been discovered but the search continues.

62. (Para. 13) Regarding the allegation that 202 mosques have been destroyed, it should be borne in mind that out of a dozen mosques in Banja Luka only two are of historical interest (Ferhad Pasha Mosque and the Arnaudija Mosque). The Banja Luka police, the local investigative judge and public prosecutor conducted an investigation and filed a criminal charge against unidentified perpetrators. The search for the perpetrators continues and one of the leads the police are working on are the particles of an unactivated explosive device of foreign make, found in the debris of the mosques.

63. (Para. 14) As to the case of Siprage, it is pointed out that this is a Muslim settlement surrounded by Muslim villages and that the greater number of criminal acts committed against Muslims than in the pre-war period is attributable to the vicinity of the war zone and their active participation in the war against the Serb people, while the proximity of combat operations makes them insecure.

64. It is true that explosives were planted under a vehicle of the International Committee of the Red Cross in Banja Luka on 17 January 1994 but it is not true that the police were reluctant to conduct an investigation. The police did conduct an investigation, identified the perpetrators soon after (on 18 January 1994), and filed a criminal charge against them (No. KU-11/94 of 29 January 1994). It was also subsequently established that their motive was to cover up the burglaries they committed at about the same time.

65. Comments on other allegations are self-evident. Repossessions of Croat apartments by Serbs, of Serb or Croat apartments by Muslims or of Muslim and Serb apartments by Croats are a fact of life both in Croatia and former Bosnia and Herzegovina. What should not be a fact of life, however, is the singling out of the Serb side alone for censure and chastisement, all the more so as the Republic of Srpska, a law-governed State, is trying to overcome this problem and assist Serb refugees expelled from Muslim- and Croat-controlled territories. This is also the responsibility of humanitarian organizations which, instead of offering a helping hand, impugn against the Serbs for alleged violence against Muslims.